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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/621,131

07/16/2003

William Paul Schmidt

ML 0166 PUS

1972

7590

04/11/2006

Steven W. Hays
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EXAMINER

ROBINSON, MARK A


ART UNIT

PAPER NUMBER

2872

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/621,131	Applicant(s) SCHMIDT, WILLIAM PAUL	
	Examiner Mark A. Robinson	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5 and 8-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this

Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Englander (US 6636822) in view of either Foster (US 2877686) or Bateman (US 3610736).

Englander discloses a crossover or crossview mirror assembly for mounting on a front surface of a vehicle having a cab (see fig. 3), the mirror assembly meeting visual requirements set forth in FMVSS 111 (see col. 1) and comprising an arcuate mirror (mirror 22 is clearly arcuate due to the shown distortion) with frame and mounting support (clearly shown in fig. 3) coupled to the front of the vehicle.

Englander does not disclose a servomotor actuator controlled by an electronic controller assembly for swiveling the mirror along an x-axis about a center point to move the

Art Unit: 2872

mirror clockwise or counterclockwise about the center point.

However, these features are disclosed by both Foster (as discussed previously) and Bateman. With respect to Foster, note motor(M1,M2) and toggle-switch type controller (col. 3) which swivel the mirror along an x-axis about a tubular region center point (e.g. 19) along a horizontal plane (see fig. 3). With respect to Bateman, note motor(30) and toggle-switch type controller(39) which swivel the mirror along an x-axis about a tubular region center point (e.g. 24,25,etc.) along a horizontal plane. Note with respect to claims 6 and 7 that since the swiveling of Foster's and Bateman's mirrors is limited, a center position may be defined midway between the clockwise-most and counterclockwise-most limits. Note also that Foster shows the swiveling to be not greater than approximately 45 degrees (fig. 3) and that Bateman's limiting structure(33,34) limits swiveling to less than this value. It would have been obvious to the ordinarily skilled artisan at the time of invention to include the actuator and controller assembly of either Foster or Bateman with Englander's mirror since motorized adjustment of the mirror is more convenient and quicker than manual adjustment.

Response to Arguments

3. Applicant's arguments filed 1/30/06 have been fully considered but they are not persuasive.

Applicant has argued that there is no motivation to combine Englander with either Foster or Bateman since Englander's invention is not concerned specifically with a crossview or crossover mirror or an electronically controlled version of the same. Further, applicant argued that since Englander is concerned with regulatory compliance of vehicle mirrors, there is no motivation in Englander to use the mirror control systems of either Foster or Bateman.

In response, the examiner notes that while Englander is primarily concerned with testing and compliance of vehicle mirrors, Englander also discloses a crossview or crossover mirror supported by a vehicle (bus) as clearly shown in fig. 3. The drawings are to be evaluated for what they reasonably disclose or suggest to the ordinarily skilled artisan whether or not what is shown is either intended or explained in the specification. See MPEP 2125. Therefore, the claimed mirror and support are met by Englander as set forth in the rejection, regardless of whether or not these elements are of primary concern to Englander.

Art Unit: 2872

Concerning motivation, it should be noted that there is no requirement that motivation to combine the teachings of references be found in the primary reference. In this case, the rejection sets forth a motivation for the combination of teachings, and this motivation has not been specifically traversed by applicant. Thus, it is still seen that using the electronic actuator/controller of either Foster or Bateman provides the benefits cited in the rejection.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2872

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Robinson whose telephone number is (571) 272-2319.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn, can be reached at (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2800.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR

4/6/06


MARK A. ROBINSON
PRIMARY EXAMINER